IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER,

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 17439 of 2004

Between:

1 . Government of A.P., rep by its Principal Secretary, Revenue (Services-III-I) Department Hyderabad
2 . The Special Chief Secretary & Chief Commissioner of Land Administration, A.P. Hyderabad
3 .The District Collector, Ananthapur District, Ananthapur

..... PETITIONERS

AND

Sri D. Sudhakar Reddy, Senior Assistant O/o the District Supply Officer, Ananthapur

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any Writ or proceedings more particulalry one in the nature of Writ of Cefrtiorari calling for the records pertaining to the orders passed in O.A. No. 1618/2003 on the file of Hon'ble APAT., Hyderabad dated 31-03-2003 and quash the same as illegal and arbitrary

Counsel for the Petitioner:GP FOR SERVICES II

Counsel for the Respondent.: .

The Court made the following :

Oral Order:(per Sri Justice Goda Raghuram)

Aggrieved by the order of the Administrative Tribunal dated 31-3-2003 in O.A.No.1618 of 2003, the official respondents therein are before this Court.

The respondent and two others Rangappa and Rajeshwari were initially appointed in the Irrigation Department of the State as Junior Assistants and also earned promotion in the same department as Senior Assistants. In the latter category they were regularized with effect from 20-4-1985 and thereafter transferred to the Revenue Department with effect from 10-6-1988 on administrative grounds. All the three including the respondent herein made representations to the Government seeking enlistment in the seniority list during the panel year 1987-88 on the ground that they were transferred to the Revenue Department on administrative grounds. By a Memo dated 16-3-2003, the Government rejected the case of the respondent for the panel year 1987-88 and included their names in the list for the panel year 1990-91. However, in G.O.Rt. No. 1358 dated 27-7-2002,Rangappa who was Junior to the respondent herein was considered for inclusion in the panel year 1987-88 on the ground that the Government had relaxed Rule 23 (5) of the A.P.Ministerial Service Rules in his favour. Request for similar treatment for the respondent herein and the other individual Rajeshwari was rejected on the ground that the relaxation was ordered only in favour of Rangappa and none in favour of the respondent herein or Rajeshwari. Aggrieved by the proceedings dated 16-3-2000 declining revision of his seniority on par with Rangappa, the respondent filed the O.A.

The Tribunal by the order impugned herein rightly found that the State Government was arbitrarily exercising its powers of relaxation granting relaxation to some employees and not to others though both sets of employees are identically circumstanced and accordingly directed the appellants herein to consider the

representation of the respondent herein also for relaxation under Rule 23(5) of A.P.Ministerial Service Rules,1996 and treat him on par with other officers like Rangappa. The Tribunal concluded that not treating the respondent herein equally with Rangappa constitutes hostile discrimination in violation of Articles 14 And 16 of Constitution of India. The respondent herein was permitted to make fresh representation to the appellants herein within a week from the date of receipt of the order of the Tribunal.

Neither before the Tribunal nor before this Court does the Government advance even a scientilla of reason as to why Rangappa was chosen for the benefit of relaxation, while denying equal treatment to the respondent herein. The power of relaxation of provisions of statutory rules is a public power granted to the appellants herein to be exercised in conformity with the constitutional injunctions of equality under Articles 14 and 16 of Constitution of India. It is not a power available to exercise at whim and caprice or to confer favour or disfavour on citizens without a legitimizing foundation in facts and rationally discernable distinctions.

In view of the facts and circumstances of this case, the order of the Tribunal is impeccable and warrants no interference. The writ petitionl does not deserve admittance and is accordingly dismissed at the stage of admission. No costs.

JC.J,

GR.J,

Stp

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 .The Principal Secretary, Government of A.P., Revenue (Services-III-I) Department Hyderabad
2 . The Special Chief Secretary & Chief Commissioner of Land Administration, A.P. Hyderabad
3 .The District Collector, Ananthapur District, Ananthapur

4. 2 CCs for Government Pleader for Services II,A.P.High Court Buildings,Hyd.

5.The Registrar, A.P.Administrative Tribunal, Hyderabad.

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THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO : 17439 of 2004

10-11-2004

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